

PLANNING AND ZONING COMMISSION

There was a meeting of the Indian River County (IRC) Planning and Zoning Commission (P&Z) on Thursday, February 22, 2007 at 7:00 p.m. in the Commission Chambers of the County Administration Building, 1840 25th Street, Vero Beach, Florida.

Present were members: Chairman Bob Bruce, District 2 Appointee; Donna Keys, District 1 Appointee; Greg Smith, District 4 Appointee; George Christopher, District 5 Appointee; George Hamner and Dr. Richard Baker, Members-at-Large; and Susan Olson, Alternate, non-voting School Board Liaison.

Absent were members: Craig Fletcher, District 3 Appointee and Ann Reuter, non-voting School Board Liaison

Also present were IRC staff: William G. Collins, County Attorney; Bob Keating, Community Development Director; Chris Mora, Assistant Public Works Director; Stan Boling, Planning Director; John McCoy, Steven Deardeuff and Brian Freeman, Senior Planners, Current Development; and Terri Collins-Lister, Staff Assistant IV.

Call to Order and Pledge of Allegiance

Chairman Bruce called the meeting to order and led all in the Pledge of Allegiance.

Approval of the Minutes

ON MOTION by Ms. Keys, SECONDED BY Mr. Hamner, the members voted unanimously (6-0) to approve the February 8, 2007 meeting minutes as presented.

Item Not on Consent

A. Top Hat N' Tails Pet Ranch: Request for administrative permit use approval for a pet boarding kennel to be known as Top Hat N' Tails Pet Boarding Facility. Mercer Beck Enterprises, LLC, Owner. Kimley-Horn & Associates Inc., Agent. Located at 7890 66th Avenue. Zoning Classification: A-1, Agricultural 1 (up to 1unit/5 acres). Land Use Designation: AG-1, Agricultural 1 (up to 1 unit/5 acres). **[Quasi-Judicial]** (SP-MA-07-01-06/2006070238-56709)

Mr. Stan Boling, IRC Planning Director, gave a brief summary of the uses in an agricultural zoned area and displayed a map of the districts west of 58th Avenue outside the urban service area that were designated and zoned for agriculture with certain kinds of uses. He noted some of the uses allowed were mining operations, institutional and different types of animal care uses. He pointed out there were several types of animal care establishments such as commercial stables and kennels, veterinarian clinics and pet grooming businesses west of 58th Avenue. He explained veterinarian clinics and commercial kennels were allowed by administrative permit use, required site plan approval and must meet special criteria. He detailed over the year, staff had found the biggest concern with kennels was the potential for noise, so the special criteria would deal with the potential noise by requiring special setbacks, activities within an enclosed building and regulating more strictly what was outside.

Mr. Steven Deardeuff, IRC Senior Planner, Current Development, reviewed the information contained in his memorandum, a copy of which is on file in the Commission Office.

Mr. Christopher pointed out the condition that there were no outside activities after 6:00 p.m., however in the packet it stated during daylight hours and he mentioned during the summer it stayed light later. Mr. Deardeuff confirmed 6:00 p.m. was established as the end of daylight hours.

Mr. Bruce inquired on the morning hours and it was determined as a condition, the hours would be from 7:00 a.m. until 6:00 p.m. for outside activities.

Mr. Smith asked Mr. Boling if there was any commercial kennels throughout the County located in the urban service area and wondered if there were many associated with cattle and horses within the proximity to where those kennels were. Mr. Boling was not sure if there were any existing commercial stables next to commercial kennels.

Mr. Smith asked if a tree barrier was an effective sound deterrent. Mr. Boling replied it generally was not, but a visual and sound deterrent would be something solid such as a berm, solid wall or building. Mr. Smith indicated most of the landscaping was on the west side and was there some type of a deterrent to put up on the south side by Sea Breeze Farms. Mr. Boling felt if there was concern about noise, P&Z had the discretion to add a condition for some type of buffer that was effective for sound.

Mr. Smith asked if the building would be designed to buffer the sound. Mr. Boling said the building was block construction and had solid doors.

Mr. Hamner wondered if the dogs would be able to see outside and if the applicant had considered closing off portions to prohibit them from seeing outside to mitigate the noise. He pointed out that with the commercial stables next door, if the dogs saw the activity they would make a lot of noise. He thought the applicant should consider voluntarily something that would buffer the neighbor.

Mr. Bruce indicated there was a letter from Ms. Ruthie Meeko, Sea Breeze Farms, in which she brought up the point about the Sebastian River Water Control District (SRWCD) had not issued a permit.

Mr. Boling stated there was an existing driveway access from 66th Avenue that was partially in the SRWCD. He pointed out the site plan requirements were such, the access would need to be improved. He mentioned SRWCD had looked at the site plan and indicated it could be permitted. It was determined no permit had been issued and no construction on this project could begin until SRWCD issued a permit.

Mr. Christopher brought up the issue of noise and inquired if the project was approved, what would be the remedy for the adjacent property owner if the operation became offensive. Mr. Boling stated essentially whatever the requirements the County had in place or conditions, Code Enforcement could enforce.

A discussion ensued on animal noise.

Ms. Keys asked how a project qualifies for an administrative permit. Mr. Boling explained the application had to go through a staff level review and site plan and specific criteria must be met. Ms. Keys wondered if compatibility with the neighboring residents was one of the requirements for granting an administrative permit.

Mr. Christopher mentioned in the staff memorandum, the staff stated on page 3 that noise would be mitigated so there was not an adverse impact and conditions may be imposed to ensure adequate mitigation.

Mr. Christopher wondered why a special use permit was needed at P&Z and what was triggering the special use. Mr. Robert Keating, IRC Community Development Director, explained the way the zoning code was structured, there were different zoning districts and certain uses that were allowed in each district. He continued that uses were characterized by how they were allowed and administrative permit use generally fit in a zoning district, but may need some additional requirements or criteria. Mr. Keating commented as more people go outside the urban service area there would be more land use conflicts.

Mr. Keith Pelan, Kimley-Horn and Associates, Inc., representing the applicant, Mercer Beck Enterprises, LLC, gave an overview of the infrastructure. He emphasized each individual kennel was enclosed and had its own dog run which was all under roof.

Mr. Hamner emphasized dogs would react if they would see someone or hear a noise and felt if there could be some type of buffer to prevent the dog from seeing out such as a drop down canvas or enclosure. He opined a Type B Buffer with a berm and plants to deflect the noise around the property although it was not required, would help mitigate the project.

Mr. Christopher asked if there had been mitigation measures to deal with the noise and were they adequate.

Mr. Greg Burke, Gregory Burke Architect PA, indicated from a design stand point they had done everything possible to mitigate the sound levels down without padding the walls. He detailed the building would be made of a block structure with foam insulation in the walls and there would be sound seals around the doors.

A discussion ensued on buffers to mitigate potential impacts of noise, the infrastructure and the site plan.

Chairman Bruce opened the public hearing at 7:46 p.m.

Ms. Ruth Meeko, 7810 66th Avenue, Sea Breeze Farms, owner of property adjacent to the proposed commercial kennel was concerned about the noise from the kennel. She stated that she could hear the dogs barking from other kennels in the surrounding area as well as the Humane Society dogs. She felt it would be impossible to sell her property eventually with a commercial kennel next door. She pointed out the noise from the proposed kennel could spook the horses while she was giving riding lessons and could be a big liability if someone would get hurt.

Mr. John Maroney, 7880 66th Avenue, stated he owned 185 feet of the driveway and where the proposed commercial kennel wanted to widen the road there was not enough room.

Mr. Boling pointed out there was an existing driveway which served several properties and Mr. Maroney's driveway comes off of it from the south side. He indicated to the P&Z, the plans in the agenda packet show the driveway was being widened and paved.

A discussion ensued on the access rights and the easement.

Mr. Boling spoke up and said this request was reviewed at the Technical Review Committee Meeting where it was determined the applicant had access rights and what they really needed was a permit from the SRWCD to do the improvement shown on the site plan.

Mr. J.D. and Mrs. Sheryl Haffield, 6760 73rd Street, speaking on behalf of Sea Breeze Farms, told P&Z that Vero Beach Pet Sitters had moved next to their property a year ago and they had endured dogs barking from early morning throughout the evening. They had made numerous complaints, however nothing had been resolved.

Mr. Hamner asked if Ms. Meeko could think of anything that would satisfy her that would help mitigate this project. Ms. Meeko stated part of the problem was drainage and they were going to raise the land in order to put in the commercial kennel.

Chairman Bruce closed the public hearing at 8:11 p.m.

Mr. Christopher stated clearly there was a requirement of mitigating the noise in an adequate way and asked if staff was satisfied that measures had been taken to make sure the noise was mitigated.

Mr. Boling remarked no acoustic studies or analysis of what the effects would be had been conducted but the arrangement of the indoor facility and the type of building would be substantial in mitigating the noise. He felt some of the visual buffers to avoid the contact between dogs might be able to address the noise and they had done more than other commercial kennels.

Mr. Christopher said if the proposed commercial kennel could not address or know whether the noise was mitigated in an adequate way, then there would be no remedy.

Dr. Baker asked whether it was true there would be 90 dogs and 40 cats along with a doggie day care center. Mr. Deardeuff said the exact number in the beginning would be considerably less, but could be the number at full build out. Dr. Baker opined for an agricultural area, there would be a lot of trips twice a day.

Mr. Pelan stated the term doggie day care was not appropriate and explained it was a boarding facility where people would not come in the morning and pickup at night. He opined it was more of an extended stay. He continued

the term day care was used because that land use was the term utilized in order to do the traffic study.

Mr. Chris Mora, IRC Assistant Public Works Director, felt the term day care was more intensive than a veterinarian clinic, because there was no exact use for a doggie day care.

Mr. Burke pointed out the design for this facility did not expect 90 dogs to be there day in and day out, and primarily the role for the facility was to board the dogs for the people on the beach when there was a hurricane.

A discussion ensued on the site plan of the proposed facility and adding a buffer with landscaping on the south side of the site.

Mr. Christopher felt the item should be tabled and let the applicant come back with a noise engineer showing the sound had been mitigated. He opined vinyl slats or a six foot hedge would lessen the sound, however may not mitigate it.

A discussion ensued on sound studies. Mr. Pelan did not know how realistically and feasibly it would be to put together a sound study, because it would require a similar facility within the same type of community.

ON MOTION BY Mr. Christopher, SECONDED BY Dr. Baker, the members voted (4-2) to deny the request for administrative permit. Mr. Hamner and Mr. Smith voted against the motion. Chairman Bruce, Ms. Keys, Dr. Baker and Mr. Christopher voted in favor.

UNDER DISCUSSION, Ms. Keys stated under the criteria for a commercial kennel it does say conditions may be imposed to ensure adequate mitigation of noise impacts. She opined there were conditions that can mitigate the noise impacts.

Mr. Keating came forward and told the P&Z staff needed to know what criteria kennels should meet. He felt it was not fair for applicants to come in and try to meet the criteria, go through the process and spend thousands of dollars to get to this point. A discussion followed on adequate mitigation of noise.

Mr. Smith suggested the BCC needs to set some guidelines associated with these types of applications in an agricultural area. Ms. Keys felt the P&Z could set the regulations of kennels.

Mr. Boling pointed out there was a proposed veterinarian clinic which would involve boarding dogs to be located at 66th Avenue next to a commercial stable. He felt there was no standard set to mitigate.

Chairman Bruce called for a break at 8:43 p.m. and resumed the meeting at 8:53 p.m.

Mr. Joseph Paladin, president of the Growth Awareness Committee, stated under the criteria it was not really possible to set a standard. He felt the main consideration should be what was there first and some wording for compatibility. He thought some consideration as to what was in the area prior may be a criteria.

Mr. Hamner pointed out there may need to be guidelines set to figure out the ratio of the number of dogs, the size of the kennel, and the amount of acreage.

A discussion ensued on setting guidelines and criteria. Mr. William G. Collins, IRC County Attorney, referred to an airstrip category, where there were provisions that addressed noise in the cases an airstrip would be located near a child care center or any other residential uses. He detailed the provisions stated it had to be verified in writing the proposed buildings were designed to achieve outdoor/indoor noise level reduction of at least 25 decibels. It seemed to him approaching the criteria in a similar way would be acceptable in this case.

Public Hearing

Chairman Bruce read the following into record.

- A.** Consideration of Proposed Amendments to the Landscape and Buffer Regulations of Land Development Regulations (LDR) Chapter 926, the Corridor Landscape Regulations and the Multi-family Green Space Regulations of LDR Chapter 911, the Subdivision Green Space Requirements of Chapter 913, the Stormwater Maintenance Area Regulations of LDR Chapter 930, the Littoral Zone Regulations of LDR Chapter 934, and the Definitions of LDR Chapter 901. **[Legislative]**

Mr. Boling gave the background of the proposed amendments to the County's landscape and buffer requirements and noted over the last three years the County had changed buffer requirements incrementally. He pointed out for the last two years, staff had been working with the Pelican Island Audubon Society Landscaping Committee (Audubon Landscaping Committee) to get input and a comprehensive review of LDR Chapter 926 and several other related chapters.

Mr. Brian Freeman, IRC Senior Planner, Current Development, reviewed the major changes being proposed to the different LDR Chapters and Code for the landscape and buffer regulations along with the cost implications of these changes contained in his memorandum, a copy of which is on file in the Commission Office.

He advised for larger projects, which was defined as a residential project over twenty units whether it was a subdivision or multi-family site or for a non-residential development, which was over 40,000 square feet of impervious area, the landscape plan would need to be prepared by either a registered landscape architect or a Florida Certified Landscape Designer. He stated there had been an increase in the minimum size requirements for trees and scrubs.

Ms. Keys questioned the Professional Services Advisory Committee (PSAC) recommendations:

4. Nonresidential projects, the roadway buffer requirement along local streets should be reduced where a site is located across from other nonresidential uses.
6. Exclude small lot subdivisions (now restricted to affordable and workforce housing) from littoral zone requirements.

She questioned recommendation number four and wondered if anyone had taken a look at what those reductions would actually be. Mr. Freeman indicated the PSAC had proposed the same 10 foot wide buffer as currently in the code, although it would corridor the standard as far as the number of trees and scrubs in the buffer as opposed to what was proposed in the draft which was a 15 foot wide perimeter buffer. He proposed in the draft there was an exception for sites that had a limited depth which was less than 150 feet where the roadway buffer would be no more than 10% of the depth of a project site.

Ms. Keys reviewed recommendation number six. She suggested reducing the requirements and would like to hear from the committee. Chairman Bruce concluded small lot subdivisions were limited to Habitat for Humanity with a volunteer effort to do the landscaping. Mr. Freeman stated buffer requirements were less for small lot subdivisions than they would be for a standard subdivision.

Ms. Keys referred to the table on page 3 of the memorandum which showed the requirement of 24 shrubs per 100 lineal feet and noted the proposed requirement of 55 shrubs. She inquired if there was a situation of overcrowding now and wondered if doubling the number of shrubs would hurt the situation even more.

Mr. Freeman stated the problem with the overcrowding was in the foundation planning areas around the base of the building and noted the formula was three shrubs per ten square feet. He felt with the Type B buffer, it was being proposed where there were shrubs used as some type of opaque feature, the standard would be a double row of shrubs.

Mr. Smith questioned with the increased number of shrubs being required was there any type of analysis associated with the increased number of shrubs, berm areas and water use.

Mr. Freeman explained standards were being set for berms. Mr. Smith gave an example of two very large developments with hundreds of shrubs and wondered if the landscaping was close to the proposed standard. He detailed there was one of two things that had to happen, one being those hundreds of shrubs would die or nobody would want to know the water use to keep them alive.

Mr. Jens Tripson, representing the Pelican Island Audubon Society, agreed with Mr. Smith on the berms and indicated proposing a minimum slope and footage on the top of a berm would require smaller, shorter berms. He felt once the proposed landscaping amendment was implemented it would discourage berms because it would take up lot space.

Chairman Bruce inquired whether it would encourage the use of walls. Mr. Tripson stated they had spent a lot of time on this and looked at many different ordinances around the state. He opined it would encourage the use of drought resistance plants. He remarked the walls were limited, however they could not be outlawed, and the committee spent a great deal of time trying to provide incentives for the use of plants.

Mr. Tripson mentioned if a development had a berm at the slopes and grade that was recommended, the plants would need to be done correctly to survive once the water would be turned off and noted Code Enforcement may need to become involved.

Chairman Bruce pointed out there was a cost analysis done and asked if it had been considered that the new landscape ordinance would cost less in the long run to maintain and asked if it was factored into the cost analysis.

A discussion ensued on the landscaping. Mr. Boling mentioned the landscaping requirements were just for the buffer areas and common areas, not private single family yards.

Ms. Debra Ecker, 550 Riomar Drive, thanked the IRC staff for their assistance with the proposed new landscape ordinance. She appreciated Mr. Smith's comments on the berms and noted the top of berm had to be four feet wide with ridges on the top to retain water. She continued to thank other individuals for their part in the proposed new landscape ordinance.

Ms. Keys asked if Ms. Ecker had any issues with the PSAC recommendations. Ms. Ecker stated the notes from the Audubon Society Landscaping Committee and the PSAC coincided in terms of the issues that they had raised.

Mr. Hamner had a problem with PSAC recommendation four and five and noted the cost was fair on the overall plan and saw no reason to reduce the plan.

Ms. Keys thanked Ms. Ecker for everything she had done with the proposed new landscape ordinance. Mr. Christopher told Ms. Ecker she had done a fantastic job.

Chairman Bruce questioned if the PSAC recommendation number 9 stating, "Specify that the bonding requirements for littoral zones be for a 1-year period" would be effective. Mr. Freedman explained it was the language from a previous draft to the PSAC which talked about a bond requirement for the maintenance of the littoral zones and there was discussion at the PSAC meeting regarding how long the period should be and their recommendation was for one year. He continued when staff and the Audubon Society Landscaping Committee met following the PSAC meeting it was discussed what would really be the best remedy and how the County would approach a situation where the littoral zone was not being maintained properly. He noted the better approach would be through Code Enforcement action then work with a bond and indicated for that reason the whole bond requirement was dropped. A discussion followed on the bond.

Mr. Hamner asked when the proposed landscape ordinance would become effective. Mr. Boling emphasized if approved, the proposal would go before the BCC at their March 20, 2007 meeting. He advised once the state received the ordinance, which should be by the end of March 2007, any applications for site plan or preliminary plat that came in after the effective date would be under the ordinance. He pointed out if an application was already in process it would be under the ordinance that was in effect when the application was filed. He specified the site plan application was valid for up to one year, so there would be a time lag under normal operations of perhaps a year.

Mr. Christopher brought up the issue if an application would come out tomorrow, they should not be subject to these requirements, however he remarked it had been two years in the making and the workshop was very well attended and everybody knew what was coming. He felt every applicant should be on notice and recommended a shorter time frame to become effective.

Mr. Boling reported this ordinance could affect the design and layout of a site and it was difficult to determine at this time what level for staff approval a project would be at, and when it would come before the P&Z.

Mr. Paladin wanted clarity on small lot subdivisions and Mr. Hamner said the proposal as it was written was that a small lot subdivision was exempt from the littoral zone requirements, otherwise it applied. A discussion followed on small lot subdivisions.

ON MOTION BY Ms. Keys, SECONDED BY Dr. Baker to approve the proposed changes to the County's landscape and buffer requirements.

UNDER DISCUSSION, Mr. Christopher asked if the recommendation incorporated the changes from the PSAC. Mr. Boling stated the changes were those that staff and the PSAC had accepted.

Mr. Christopher was not clear on the timeframe and what must occur. Mr. Boling indicated the two applications to be focused on would be the site plans and preliminary plats. Mr. Christopher clarified if the application had been filed prior to the effective date, 90 days after the effective date of the ordinance the applicant needed a pre-existing application approved.

Ms. Keys AMENDED HER MOTION, Dr. Baker AMENDED HIS SECOND, and the members voted unanimously (6-0) to approve the proposed changes to the County's landscape and buffer requirements with the stipulation that 90 days after the effective date of the ordinance, any preliminary plat or site plan approval must meet the new ordinance requirements.

Commissioners Matters

Mr. Christopher discussed the information in his memorandum on the Workshop on Improving Quality of Developments, a copy of which is on file in the Commission Office.

Mr. Christopher asked the P&Z to select a date for the workshop and a lengthy discussion followed on the date and time of the workshop.

Mr. Keating stated he would ask staff to assist in contacting the individuals on the panels to find an acceptable date for the workshop.

Planning Matters

Mr. Boling reported at the February 13, 2007, BCC Meeting, the BCC approved the rezoning from Limited Commercial to General Commercial on the east side of U.S. 1 that P&Z recommended as well as the request from the United Indian River Packers, LLC for a small scale land use map amendment.

Mr. Boling mentioned two appeals were heard at the February 13, 2007, BCC Meeting. He reported on the Source Appeal, the finding of the BCC was a (3-2) vote that the appeal to the P&Z was defective, the action was undone and the BCC did not hear the appeal, so the determination by staff stands at this point. Mr. Boling concluded the BCC voted (5-0) to overturn the P&Z denial and approve the Century Town Center site plan with the conditions recommended by staff.

Mr. Boling told P&Z at the February 20, 2007 BCC Meeting, the BCC agreed on a settlement on the Nextel Tower in which the P&Z had approved and was overturned by the BCC. He indicated the Nextel Tower was approved with the conditions recommended by the P&Z including the low profile approach.

Attorney Matters

Attorney Collins pointed out several courtesy notices were sent to Chairman Bruce that Waterway Village has filed appeals to the concurrency determinations.

Mr. Paladin asked P&Z if they were satisfied on the noise element with the commercial kennel. He proposed researching design, style and sound proofing and how other commercial kennels were designed in order to set guidelines.

Mr. Hamner asked if there was a way to measure the other kennels within the County in regards to complaints. A discussion followed on noise mitigation.

Adjournment

The meeting adjourned at 10:10 p.m.

Bob Bruce, Chairman

Date

Terri Collins-Lister, Staff Assistant IV

Date